

FERC ISSUES ORDER TO PACIFICCORP APPROVING 2005 ANNUAL PROGRESS REPORT UNDER ARTICLE 401

6 December 2006

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WASHINGTON, Dec. 6 -- The U.S. Department of Energy's Federal Energy Regulatory Commission issued the text of the following delegated order:

PacificCorp Project No. 20-074

ORDER APPROVING 2005 ANNUAL PROGRESS REPORT UNDER ARTICLE 401

On May 8, 2006, PacificCorp, licensee for the Bear River Hydroelectric Project filed the 2005 annual progress report under Article 401 of the license. [1] The Bear River Hydroelectric Project consists of three developments located on the Bear River, in Caribou and Franklin Counties, Idaho.

LICENSE REQUIREMENTS

Article 401 in part requires the licensee to file, for Commission approval detailed annual progress reports on or before March 1 for the term of the license, starting on or before March 1, 2005. These reports are required to include: (1) a description of activities, including final reports of any studies or monitoring, data, analysis, and conclusions, that the licensee undertook or prepared pursuant to the license requirements during the previous year; (2) a description of anticipated activities to be undertaken during the upcoming year pursuant to the license; and (3) a report of all funding accounts, including funds spent, balances of accounts and available funds. The licensee is required to prepare the annual reports in consultation with the Environmental Coordination Committee (ECC). The ECC consists of the licensee, federal and state resource agencies, Tribes, and non-governmental organizations. The purpose and role of the ECC is defined in Section 4.1 of the Settlement Agreement approved by the license.

In each annual report the licensee is required to include documentation of consultation with the ECC, copies of comments and recommendations on the report after preparation, and specific descriptions of how the ECC's comments are accommodated by the proposed schedule and activities in the annual report. The Commission reserves the right to make changes to the proposed schedule in the reports. The Commission also reserves the right to make changes to project structures and operation, as well as the measures set forth in the license, after notice and opportunity for hearing based upon the information provided in the reports.

THE 2005 ANNUAL PROGRESS REPORT

The 2005 progress report provides the details and accomplishments made toward implementing the protection, mitigation and enhancement (PM&E) measures required in the various requirements (400 series articles) of the license during 2005. The report includes updated implementation schedules and plans for those measures identified in these articles. Further, the report includes a description of the funds deposited in accounts and spent during 2005 for the PM&E measures required in the license articles and a balance of remaining funds. Those work items proposed for initiation and completion during 2006 are described in Appendix C of the report along with an implementation schedule.

RESOURCE AGENCY CONSULTATION

The 2005 annual report was prepared in consultation with the ECC, and the report documents the several meetings that took place during 2005. The purposes of these meetings were to develop strategies for the implementation of the PM&E measures and provide oversight for these measures. The licensee provided a draft report to the ECC on April 1, 2006. Comments received from the ECC members were incorporated into the final report.

DISCUSSION AND CONCLUSIONS

The licensee developed the 2005 annual report in consultation with the ECC as required by Article 401. The report describes accomplishments regarding implementing the license required PM&E measures during 2005 and describes those tasks to be undertaken during 2006. An accounting of funds spent, account balance, and remaining funds are included in the report. The report documents the licensee's progress toward environmental resource protection and enhancement in the project area. The report complies with the requirements of Article 401 and should be approved. However, the licensee is reminded that pursuant to Article 401 the report is required to be filed on or before March 1. The next annual report will be due March 1, 2007.

The Director orders:

(A) The 2005 annual progress report filed May 8, 2006, pursuant to Article 401 of the Bear River Project license, is approved.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR Sect. 385.713.

George H. Taylor Chief, Biological Resources Branch Division of Hydropower
Administration and Compliance

[1] 105 FERC Para 62,207 (December 22, 2003)

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